

In the Senate of the United States,

December 8, 2010.

Resolved, That the bill from the House of Representatives (H.R. 4337) entitled “An Act to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE, ETC.***

2 (a) *SHORT TITLE*.—*This Act may be cited as the*
3 *“Regulated Investment Company Modernization Act of*
4 *2010”*.

5 (b) *REFERENCE*.—*Except as otherwise expressly pro-*
6 *vided, whenever in this Act an amendment or repeal is ex-*
7 *pressed in terms of an amendment to, or repeal of, a section*
8 *or other provision, the reference shall be considered to be*

1 *made to a section or other provision of the Internal Revenue*
 2 *Code of 1986.*

3 (c) *TABLE OF CONTENTS.—The table of contents for*
 4 *this Act is as follows:*

Sec. 1. Short title, etc.

*TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT
COMPANIES*

Sec. 101. Capital loss carryovers of regulated investment companies.

*TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS OF
REGULATED INVESTMENT COMPANIES*

*Sec. 201. Savings provisions for failures of regulated investment companies to
satisfy gross income and asset tests.*

*TITLE III—MODIFICATION OF RULES RELATED TO DIVIDENDS AND
OTHER DISTRIBUTIONS*

*Sec. 301. Modification of dividend designation requirements and allocation rules
for regulated investment companies.*

Sec. 302. Earnings and profits of regulated investment companies.

*Sec. 303. Pass-thru of exempt-interest dividends and foreign tax credits in fund
of funds structure.*

*Sec. 304. Modification of rules for spillover dividends of regulated investment
companies.*

Sec. 305. Return of capital distributions of regulated investment companies.

*Sec. 306. Distributions in redemption of stock of a regulated investment com-
pany.*

*Sec. 307. Repeal of preferential dividend rule for publicly offered regulated invest-
ment companies.*

*Sec. 308. Elective deferral of certain late-year losses of regulated investment com-
panies.*

*Sec. 309. Exception to holding period requirement for certain regularly declared
exempt-interest dividends.*

*TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX APPLICABLE
TO REGULATED INVESTMENT COMPANIES*

*Sec. 401. Excise tax exemption for certain regulated investment companies owned
by tax exempt entities.*

*Sec. 402. Deferral of certain gains and losses of regulated investment companies
for excise tax purposes.*

*Sec. 403. Distributed amount for excise tax purposes determined on basis of taxes
paid by regulated investment company.*

Sec. 404. Increase in required distribution of capital gain net income.

TITLE V—OTHER PROVISIONS

*Sec. 501. Repeal of assessable penalty with respect to liability for tax of regulated
investment companies.*

Sec. 502. Modification of sales load basis deferral rule for regulated investment companies.

1 ***TITLE I—CAPITAL LOSS***
 2 ***CARRYOVERS OF REGULATED***
 3 ***INVESTMENT COMPANIES***

4 ***SEC. 101. CAPITAL LOSS CARRYOVERS OF REGULATED IN-***
 5 ***VESTMENT COMPANIES.***

6 *(a) IN GENERAL.—Subsection (a) of section 1212 is*
 7 *amended by redesignating paragraph (3) as paragraph (4)*
 8 *and by inserting after paragraph (2) the following new*
 9 *paragraph:*

10 *“(3) REGULATED INVESTMENT COMPANIES.—*

11 *“(A) IN GENERAL.—If a regulated invest-*
 12 *ment company has a net capital loss for any*
 13 *taxable year—*

14 *“(i) paragraph (1) shall not apply to*
 15 *such loss,*

16 *“(ii) the excess of the net short-term*
 17 *capital loss over the net long-term capital*
 18 *gain for such year shall be a short-term*
 19 *capital loss arising on the first day of the*
 20 *next taxable year, and*

21 *“(iii) the excess of the net long-term*
 22 *capital loss over the net short-term capital*
 23 *gain for such year shall be a long-term cap-*

1 ital loss arising on the first day of the next
2 taxable year.

3 “(B) COORDINATION WITH GENERAL
4 RULE.—If a net capital loss to which paragraph
5 (1) applies is carried over to a taxable year of
6 a regulated investment company—

7 “(i) LOSSES TO WHICH THIS PARA-
8 GRAPH APPLIES.—Clauses (ii) and (iii) of
9 subparagraph (A) shall be applied without
10 regard to any amount treated as a short-
11 term capital loss under paragraph (1).

12 “(ii) LOSSES TO WHICH GENERAL
13 RULE APPLIES.—Paragraph (1) shall be ap-
14 plied by substituting ‘net capital loss for the
15 loss year or any taxable year thereafter
16 (other than a net capital loss to which
17 paragraph (3)(A) applies)’ for ‘net capital
18 loss for the loss year or any taxable year
19 thereafter’.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (C) of section 1212(a)(1) is
22 amended to read as follows:

23 “(C) a capital loss carryover to each of the
24 10 taxable years succeeding the loss year, but

1 *only to the extent such loss is attributable to a*
 2 *foreign expropriation loss,”.*

3 *(2) Paragraph (10) of section 1222 is amended*
 4 *by striking “section 1212” and inserting “section*
 5 *1212(a)(1)”.*

6 *(c) EFFECTIVE DATE.—*

7 *(1) IN GENERAL.—Except as provided in para-*
 8 *graph (2), the amendments made by this section shall*
 9 *apply to net capital losses for taxable years beginning*
 10 *after the date of the enactment of this Act.*

11 *(2) COORDINATION RULES.—Subparagraph (B)*
 12 *of section 1212(a)(3) of the Internal Revenue Code of*
 13 *1986, as added by this section, shall apply to taxable*
 14 *years beginning after the date of the enactment of this*
 15 *Act.*

16 **TITLE II—MODIFICATION OF**
 17 **GROSS INCOME AND ASSET**
 18 **TESTS OF REGULATED IN-**
 19 **VESTMENT COMPANIES**

20 **SEC. 201. SAVINGS PROVISIONS FOR FAILURES OF REGU-**
 21 **LATED INVESTMENT COMPANIES TO SATISFY**
 22 **GROSS INCOME AND ASSET TESTS.**

23 *(a) ASSET TEST.—Subsection (d) of section 851 is*
 24 *amended—*

1 (1) *by striking “A corporation which meets” and*
 2 *inserting the following:*

3 “(1) *IN GENERAL.—A corporation which meets*”,
 4 *and*

5 (2) *by adding at the end the following new para-*
 6 *graph:*

7 “(2) *SPECIAL RULES REGARDING FAILURE TO*
 8 *SATISFY REQUIREMENTS.—If paragraph (1) does not*
 9 *preserve a corporation’s status as a regulated invest-*
 10 *ment company for any particular quarter—*

11 “(A) *IN GENERAL.—A corporation that fails*
 12 *to meet the requirements of subsection (b)(3)*
 13 *(other than a failure described in subparagraph*
 14 *(B)(i)) for such quarter shall nevertheless be con-*
 15 *sidered to have satisfied the requirements of such*
 16 *subsection for such quarter if—*

17 “(i) *following the corporation’s identi-*
 18 *fication of the failure to satisfy the require-*
 19 *ments of such subsection for such quarter, a*
 20 *description of each asset that causes the cor-*
 21 *poration to fail to satisfy the requirements*
 22 *of such subsection at the close of such quar-*
 23 *ter is set forth in a schedule for such quar-*
 24 *ter filed in the manner provided by the Sec-*
 25 *retary,*

1 “(ii) the failure to meet the require-
 2 ments of such subsection for such quarter is
 3 due to reasonable cause and not due to will-
 4 ful neglect, and

5 “(iii)(I) the corporation disposes of the
 6 assets set forth on the schedule specified in
 7 clause (i) within 6 months after the last
 8 day of the quarter in which the corpora-
 9 tion’s identification of the failure to satisfy
 10 the requirements of such subsection occurred
 11 or such other time period prescribed by the
 12 Secretary and in the manner prescribed by
 13 the Secretary, or

14 “(II) the requirements of such sub-
 15 section are otherwise met within the time
 16 period specified in subclause (I).

17 “(B) *RULE FOR CERTAIN DE MINIMIS FAIL-*
 18 *URES.*—A corporation that fails to meet the re-
 19 quirements of subsection (b)(3) for such quarter
 20 shall nevertheless be considered to have satisfied
 21 the requirements of such subsection for such
 22 quarter if—

23 “(i) such failure is due to the owner-
 24 ship of assets the total value of which does
 25 not exceed the lesser of—

1 “(I) 1 percent of the total value of
 2 the corporation’s assets at the end of
 3 the quarter for which such measure-
 4 ment is done, or

5 “(II) \$10,000,000, and

6 “(ii)(I) the corporation, following the
 7 identification of such failure, disposes of as-
 8 sets in order to meet the requirements of
 9 such subsection within 6 months after the
 10 last day of the quarter in which the cor-
 11 poration’s identification of the failure to
 12 satisfy the requirements of such subsection
 13 occurred or such other time period pre-
 14 scribed by the Secretary and in the manner
 15 prescribed by the Secretary, or

16 “(II) the requirements of such sub-
 17 section are otherwise met within the time
 18 period specified in subclause (I).

19 “(C) TAX.—

20 “(i) TAX IMPOSED.—If subparagraph
 21 (A) applies to a corporation for any quar-
 22 ter, there is hereby imposed on such cor-
 23 poration a tax in an amount equal to the
 24 greater of—

25 “(I) \$50,000, or

1 “(II) the amount determined
 2 (pursuant to regulations promulgated
 3 by the Secretary) by multiplying the
 4 net income generated by the assets de-
 5 scribed in the schedule specified in sub-
 6 paragraph (A)(i) for the period speci-
 7 fied in clause (ii) by the highest rate of
 8 tax specified in section 11.

9 “(ii) *PERIOD.*—For purposes of clause
 10 (i)(II), the period described in this clause is
 11 the period beginning on the first date that
 12 the failure to satisfy the requirements of
 13 subsection (b)(3) occurs as a result of the
 14 ownership of such assets and ending on the
 15 earlier of the date on which the corporation
 16 disposes of such assets or the end of the first
 17 quarter when there is no longer a failure to
 18 satisfy such subsection.

19 “(iii) *ADMINISTRATIVE PROVISIONS.*—
 20 For purposes of subtitle F, a tax imposed by
 21 this subparagraph shall be treated as an ex-
 22 cise tax with respect to which the deficiency
 23 procedures of such subtitle apply.”.

24 (b) *GROSS INCOME TEST.*—Section 851 is amended by
 25 adding at the end the following new subsection:

1 “(i) *FAILURE TO SATISFY GROSS INCOME TEST.*—

2 “(1) *DISCLOSURE REQUIREMENT.*—A corpora-
3 tion that fails to meet the requirement of paragraph
4 (2) of subsection (b) for any taxable year shall never-
5 theless be considered to have satisfied the requirement
6 of such paragraph for such taxable year if—

7 “(A) following the corporation’s identifica-
8 tion of the failure to meet such requirement for
9 such taxable year, a description of each item of
10 its gross income described in such paragraph is
11 set forth in a schedule for such taxable year filed
12 in the manner provided by the Secretary, and

13 “(B) the failure to meet such requirement is
14 due to reasonable cause and not due to willful
15 neglect.

16 “(2) *IMPOSITION OF TAX ON FAILURES.*—If
17 paragraph (1) applies to a regulated investment com-
18 pany for any taxable year, there is hereby imposed on
19 such company a tax in an amount equal to the excess
20 of—

21 “(A) the gross income of such company
22 which is not derived from sources referred to in
23 subsection (b)(2), over

24 “(B) $\frac{1}{9}$ of the gross income of such com-
25 pany which is derived from such sources.”.

1 (c) *DEDUCTION OF TAXES PAID FROM INVESTMENT*
 2 *COMPANY TAXABLE INCOME.*—Paragraph (2) of section
 3 852(b) is amended by adding at the end the following new
 4 subparagraph:

5 “(G) There shall be deducted an amount
 6 equal to the tax imposed by subsections (d)(2)
 7 and (i) of section 851 for the taxable year.”.

8 (d) *EFFECTIVE DATE.*—The amendments made by this
 9 section shall apply to taxable years with respect to which
 10 the due date (determined with regard to any extensions)
 11 of the return of tax for such taxable year is after the date
 12 of the enactment of this Act.

13 ***TITLE III—MODIFICATION OF***
 14 ***RULES RELATED TO DIVI-***
 15 ***DENDS AND OTHER DIS-***
 16 ***TRIBUTIONS***

17 ***SEC. 301. MODIFICATION OF DIVIDEND DESIGNATION RE-***
 18 ***QUIREMENTS AND ALLOCATION RULES FOR***
 19 ***REGULATED INVESTMENT COMPANIES.***

20 (a) *CAPITAL GAIN DIVIDENDS.*—

21 (1) *IN GENERAL.*—Subparagraph (C) of section
 22 852(b)(3) is amended to read as follows:

23 “(C) *DEFINITION OF CAPITAL GAIN DIVI-*
 24 *DEND.*—For purposes of this part—

1 “(i) *IN GENERAL.*—*Except as provided*
2 *in clause (ii), a capital gain dividend is*
3 *any dividend, or part thereof, which is re-*
4 *ported by the company as a capital gain*
5 *dividend in written statements furnished to*
6 *its shareholders.*

7 “(ii) *EXCESS REPORTED AMOUNTS.*—*If*
8 *the aggregate reported amount with respect*
9 *to the company for any taxable year exceeds*
10 *the net capital gain of the company for such*
11 *taxable year, a capital gain dividend is the*
12 *excess of—*

13 “(I) *the reported capital gain div-*
14 *idend amount, over*

15 “(II) *the excess reported amount*
16 *which is allocable to such reported cap-*
17 *ital gain dividend amount.*

18 “(iii) *ALLOCATION OF EXCESS RE-*
19 *PORTED AMOUNT.*—

20 “(I) *IN GENERAL.*—*Except as pro-*
21 *vided in subclause (II), the excess re-*
22 *ported amount (if any) which is allo-*
23 *cable to the reported capital gain divi-*
24 *dend amount is that portion of the ex-*
25 *cess reported amount which bears the*

1 same ratio to the excess reported
 2 amount as the reported capital gain
 3 dividend amount bears to the aggregate
 4 reported amount.

5 “(II) *SPECIAL RULE FOR NONCAL-*
 6 *ENDAR YEAR TAXPAYERS.*—*In the case*
 7 *of any taxable year which does not*
 8 *begin and end in the same calendar*
 9 *year, if the post-December reported*
 10 *amount equals or exceeds the excess re-*
 11 *ported amount for such taxable year,*
 12 *subclause (I) shall be applied by sub-*
 13 *stituting ‘post-December reported*
 14 *amount’ for ‘aggregate reported*
 15 *amount’ and no excess reported*
 16 *amount shall be allocated to any divi-*
 17 *dend paid on or before December 31 of*
 18 *such taxable year.*

19 “(iv) *DEFINITIONS.*—*For purposes of*
 20 *this subparagraph—*

21 “(I) *REPORTED CAPITAL GAIN*
 22 *DIVIDEND AMOUNT.*—*The term ‘re-*
 23 *ported capital gain dividend amount’*
 24 *means the amount reported to its*

1 *shareholders under clause (i) as a cap-*
 2 *ital gain dividend.*

3 “(II) *EXCESS REPORTED*
 4 *AMOUNT.—The term ‘excess reported*
 5 *amount’ means the excess of the aggre-*
 6 *gate reported amount over the net cap-*
 7 *ital gain of the company for the tax-*
 8 *able year.*

9 “(III) *AGGREGATE REPORTED*
 10 *AMOUNT.—The term ‘aggregate re-*
 11 *ported amount’ means the aggregate*
 12 *amount of dividends reported by the*
 13 *company under clause (i) as capital*
 14 *gain dividends for the taxable year (in-*
 15 *cluding capital gain dividends paid*
 16 *after the close of the taxable year de-*
 17 *scribed in section 855).*

18 “(IV) *POST-DECEMBER REPORTED*
 19 *AMOUNT.—The term ‘post-December re-*
 20 *ported amount’ means the aggregate*
 21 *reported amount determined by taking*
 22 *into account only dividends paid after*
 23 *December 31 of the taxable year.*

24 “(v) *ADJUSTMENT FOR DETERMINA-*
 25 *TIONS.—If there is an increase in the excess*

described in subparagraph (A) for the taxable year which results from a determination (as defined in section 860(e)), the company may, subject to the limitations of this subparagraph, increase the amount of capital gain dividends reported under clause (i).

“(vi) *SPECIAL RULE FOR LOSSES LATE IN THE CALENDAR YEAR.*—For special rule for certain losses after October 31, see paragraph (8).”.

(2) *CONFORMING AMENDMENT.*—Subparagraph (B) of section 860(f)(2) is amended by inserting “or reported (as the case may be)” after “designated”.

(b) *EXEMPT-INTEREST DIVIDENDS.*—Subparagraph (A) of section 852(b)(5) is amended to read as follows:

“(A) *DEFINITION OF EXEMPT-INTEREST DIVIDEND.*—

“(i) *IN GENERAL.*—Except as provided in clause (ii), an exempt-interest dividend is any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and reported by the company as an exempt-interest dividend

1 *in written statements furnished to its share-*
2 *holders.*

3 “(ii) *EXCESS REPORTED AMOUNTS.—If*
4 *the aggregate reported amount with respect*
5 *to the company for any taxable year exceeds*
6 *the exempt interest of the company for such*
7 *taxable year, an exempt-interest dividend is*
8 *the excess of—*

9 “(I) *the reported exempt-interest*
10 *dividend amount, over*

11 “(II) *the excess reported amount*
12 *which is allocable to such reported ex-*
13 *empt-interest dividend amount.*

14 “(iii) *ALLOCATION OF EXCESS RE-*
15 *PORTED AMOUNT.—*

16 “(I) *IN GENERAL.—Except as pro-*
17 *vided in subclause (II), the excess re-*
18 *ported amount (if any) which is allo-*
19 *cable to the reported exempt-interest*
20 *dividend amount is that portion of the*
21 *excess reported amount which bears the*
22 *same ratio to the excess reported*
23 *amount as the reported exempt-interest*
24 *dividend amount bears to the aggregate*
25 *reported amount.*

“(II) *SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.*—*In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting ‘post-December reported amount’ for ‘aggregate reported amount’ and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.*

“(iv) *DEFINITIONS.*—*For purposes of this subparagraph—*

“(I) *REPORTED EXEMPT-INTEREST DIVIDEND AMOUNT.*—*The term ‘reported exempt-interest dividend amount’ means the amount reported to its shareholders under clause (i) as an exempt-interest dividend.*

“(II) *EXCESS REPORTED AMOUNT.*—*The term ‘excess reported amount’ means the excess of the aggre-*

1 *gate reported amount over the exempt*
2 *interest of the company for the taxable*
3 *year.*

4 “(III) *AGGREGATE REPORTED*
5 *AMOUNT.*—*The term ‘aggregate re-*
6 *ported amount’ means the aggregate*
7 *amount of dividends reported by the*
8 *company under clause (i) as exempt-*
9 *interest dividends for the taxable year*
10 *(including exempt-interest dividends*
11 *paid after the close of the taxable year*
12 *described in section 855).*

13 “(IV) *POST-DECEMBER REPORTED*
14 *AMOUNT.*—*The term ‘post-December re-*
15 *ported amount’ means the aggregate*
16 *reported amount determined by taking*
17 *into account only dividends paid after*
18 *December 31 of the taxable year.*

19 “(V) *EXEMPT INTEREST.*—*The*
20 *term ‘exempt interest’ means, with re-*
21 *spect to any regulated investment com-*
22 *pany, the excess of the amount of inter-*
23 *est excludable from gross income under*
24 *section 103(a) over the amounts dis-*

1 *allowed as deductions under sections*
 2 *265 and 171(a)(2).”.*

3 *(c) FOREIGN TAX CREDITS.—*

4 *(1) IN GENERAL.—Subsection (c) of section 853*
 5 *is amended—*

6 *(A) by striking “so designated by the com-*
 7 *pany in a written notice mailed to its share-*
 8 *holders not later than 60 days after the close of*
 9 *the taxable year” and inserting “so reported by*
 10 *the company in a written statement furnished to*
 11 *such shareholder”, and*

12 *(B) by striking “NOTICE” in the heading*
 13 *and inserting “STATEMENTS”.*

14 *(2) CONFORMING AMENDMENTS.—Subsection (d)*
 15 *of section 853 is amended—*

16 *(A) by striking “and the notice to share-*
 17 *holders required by subsection (c)” in the text*
 18 *thereof, and*

19 *(B) by striking “AND NOTIFYING SHARE-*
 20 *HOLDERS” in the heading thereof.*

21 *(d) CREDITS FOR TAX CREDIT BONDS.—*

22 *(1) IN GENERAL.—Subsection (c) of section 853A*
 23 *is amended—*

24 *(A) by striking “so designated by the regu-*
 25 *lated investment company in a written notice*

1 mailed to its shareholders not later than 60 days
 2 after the close of its taxable year” and inserting
 3 “so reported by the regulated investment com-
 4 pany in a written statement furnished to such
 5 shareholder”, and

6 (B) by striking “NOTICE” in the heading
 7 and inserting “STATEMENTS”.

8 (2) CONFORMING AMENDMENTS.—Subsection (d)
 9 of section 853A is amended—

10 (A) by striking “and the notice to share-
 11 holders required by subsection (c)” in the text
 12 thereof, and

13 (B) by striking “AND NOTIFYING SHARE-
 14 HOLDERS” in the heading thereof.

15 (e) DIVIDEND RECEIVED DEDUCTION, ETC.—

16 (1) IN GENERAL.—Paragraph (1) of section
 17 854(b) is amended—

18 (A) by striking “designated under this sub-
 19 paragraph by the regulated investment com-
 20 pany” in subparagraph (A) and inserting “re-
 21 ported by the regulated investment company as
 22 eligible for such deduction in written statements
 23 furnished to its shareholders”,

24 (B) by striking “designated by the regulated
 25 investment company” in subparagraph (B)(i)

and inserting “reported by the regulated investment company as qualified dividend income in written statements furnished to its shareholders”,

(C) by striking “designated” in subparagraph (C)(i) and inserting “reported”, and

(D) by striking “designated” in subparagraph (C)(ii) and inserting “reported”.

(2) CONFORMING AMENDMENTS.—Subsection (b) of section 854 is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5), as paragraphs (2), (3), and (4), respectively.

(f) DIVIDENDS PAID TO CERTAIN FOREIGN PERSONS.—

(1) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) is amended by striking all that precedes “any taxable year of the company beginning” and inserting the following:

“(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph—

“(i) IN GENERAL.—Except as provided in clause (ii), an interest related dividend is any dividend, or part thereof, which is reported by the company as an interest related dividend in written statements furnished to its shareholders.

1 “(ii) *EXCESS REPORTED AMOUNTS.—If*
 2 *the aggregate reported amount with respect*
 3 *to the company for any taxable year exceeds*
 4 *the qualified net interest income of the com-*
 5 *pany for such taxable year, an interest re-*
 6 *lated dividend is the excess of—*

7 “(I) *the reported interest related*
 8 *dividend amount, over*

9 “(II) *the excess reported amount*
 10 *which is allocable to such reported in-*
 11 *terest related dividend amount.*

12 “(iii) *ALLOCATION OF EXCESS RE-*
 13 *PORTED AMOUNT.—*

14 “(I) *IN GENERAL.—Except as pro-*
 15 *vided in subclause (II), the excess re-*
 16 *ported amount (if any) which is allo-*
 17 *cable to the reported interest related*
 18 *dividend amount is that portion of the*
 19 *excess reported amount which bears the*
 20 *same ratio to the excess reported*
 21 *amount as the reported interest related*
 22 *dividend amount bears to the aggregate*
 23 *reported amount.*

24 “(II) *SPECIAL RULE FOR NONCAL-*
 25 *NDAR YEAR TAXPAYERS.—In the case*

1 of any taxable year which does not
 2 begin and end in the same calendar
 3 year, if the post-December reported
 4 amount equals or exceeds the excess re-
 5 ported amount for such taxable year,
 6 subclause (I) shall be applied by sub-
 7 stituting ‘post-December reported
 8 amount’ for ‘aggregate reported
 9 amount’ and no excess reported
 10 amount shall be allocated to any divi-
 11 dend paid on or before December 31 of
 12 such taxable year.

13 “(iv) *DEFINITIONS.*—For purposes of
 14 this subparagraph—

15 “(I) *REPORTED INTEREST RE-*
 16 *LATED DIVIDEND AMOUNT.*—The term
 17 ‘reported interest related dividend
 18 amount’ means the amount reported to
 19 its shareholders under clause (i) as an
 20 interest related dividend.

21 “(II) *EXCESS REPORTED*
 22 *AMOUNT.*—The term ‘excess reported
 23 amount’ means the excess of the aggre-
 24 gate reported amount over the qualified

1 *net interest income of the company for*
 2 *the taxable year.*

3 “(III) *AGGREGATE REPORTED*
 4 *AMOUNT.*—*The term ‘aggregate re-*
 5 *ported amount’ means the aggregate*
 6 *amount of dividends reported by the*
 7 *company under clause (i) as interest*
 8 *related dividends for the taxable year*
 9 *(including interest related dividends*
 10 *paid after the close of the taxable year*
 11 *described in section 855).*

12 “(IV) *POST-DECEMBER REPORTED*
 13 *AMOUNT.*—*The term ‘post-December re-*
 14 *ported amount’ means the aggregate*
 15 *reported amount determined by taking*
 16 *into account only dividends paid after*
 17 *December 31 of the taxable year.*

18 “(v) *TERMINATION.*—*The term ‘interest*
 19 *related dividend’ shall not include any divi-*
 20 *dend with respect to”.*

21 (2) *SHORT-TERM CAPITAL GAIN DIVIDENDS.*—
 22 *Subparagraph (C) of section 871(k)(2) is amended by*
 23 *striking all that precedes “any taxable year of the*
 24 *company beginning” and inserting the following:*

1 “(C) *SHORT-TERM CAPITAL GAIN DIVI-*
2 *DEND.—For purposes of this paragraph—*

3 “(i) *IN GENERAL.—Except as provided*
4 *in clause (ii), the term ‘short-term capital*
5 *gain dividend’ means any dividend, or part*
6 *thereof, which is reported by the company*
7 *as a short-term capital gain dividend in*
8 *written statements furnished to its share-*
9 *holders.*

10 “(ii) *EXCESS REPORTED AMOUNTS.—If*
11 *the aggregate reported amount with respect*
12 *to the company for any taxable year exceeds*
13 *the qualified short-term gain of the com-*
14 *pany for such taxable year, the term ‘short-*
15 *term capital gain dividend’ means the ex-*
16 *cess of—*

17 “(I) *the reported short-term cap-*
18 *ital gain dividend amount, over*

19 “(II) *the excess reported amount*
20 *which is allocable to such reported*
21 *short-term capital gain dividend*
22 *amount.*

23 “(iii) *ALLOCATION OF EXCESS RE-*
24 *PORTED AMOUNT.—*

1 “(I) *IN GENERAL.*—*Except as pro-*
2 *vided in subclause (II), the excess re-*
3 *ported amount (if any) which is allo-*
4 *cable to the reported short-term capital*
5 *gain dividend amount is that portion*
6 *of the excess reported amount which*
7 *bears the same ratio to the excess re-*
8 *ported amount as the reported short-*
9 *term capital gain dividend amount*
10 *bears to the aggregate reported amount.*

11 “(II) *SPECIAL RULE FOR NONCAL-*
12 *ENDAR YEAR TAXPAYERS.*—*In the case*
13 *of any taxable year which does not*
14 *begin and end in the same calendar*
15 *year, if the post-December reported*
16 *amount equals or exceeds the excess re-*
17 *ported amount for such taxable year,*
18 *subclause (I) shall be applied by sub-*
19 *stituting ‘post-December reported*
20 *amount’ for ‘aggregate reported*
21 *amount’ and no excess reported*
22 *amount shall be allocated to any divi-*
23 *dend paid on or before December 31 of*
24 *such taxable year.*

1 “(iv) *DEFINITIONS.*—For purposes of
2 this subparagraph—

3 “(I) *REPORTED SHORT-TERM CAP-*
4 *ITAL GAIN DIVIDEND AMOUNT.*—The
5 term ‘reported short-term capital gain
6 dividend amount’ means the amount
7 reported to its shareholders under
8 clause (i) as a short-term capital gain
9 dividend.

10 “(II) *EXCESS REPORTED*
11 *AMOUNT.*—The term ‘excess reported
12 amount’ means the excess of the aggre-
13 gate reported amount over the qualified
14 short-term gain of the company for the
15 taxable year.

16 “(III) *AGGREGATE REPORTED*
17 *AMOUNT.*—The term ‘aggregate re-
18 ported amount’ means the aggregate
19 amount of dividends reported by the
20 company under clause (i) as short-term
21 capital gain dividends for the taxable
22 year (including short-term capital
23 gain dividends paid after the close of
24 the taxable year described in section
25 855).

1 “(IV) *POST-DECEMBER REPORTED*
 2 *AMOUNT.*—*The term ‘post-December re-*
 3 *ported amount’ means the aggregate*
 4 *reported amount determined by taking*
 5 *into account only dividends paid after*
 6 *December 31 of the taxable year.*

7 “(v) *TERMINATION.*—*The term ‘short-*
 8 *term capital gain dividend’ shall not in-*
 9 *clude any dividend with respect to’.*

10 (g) *CONFORMING AMENDMENTS.*—*Section 855 is*
 11 *amended—*

12 (1) *by striking subsection (c) and redesignating*
 13 *subsection (d) as subsection (c), and*

14 (2) *by striking “, (c) and (d)” in subsection (a)*
 15 *and inserting “and (c)”.*

16 (h) *EFFECTIVE DATE.*—*The amendments made by this*
 17 *section shall apply to taxable years beginning after the date*
 18 *of the enactment of this Act.*

19 (i) *APPLICATION OF JGTRRA SUNSET.*—*Section 303*
 20 *of the Jobs and Growth Tax Relief Reconciliation Act of*
 21 *2003 shall apply to the amendments made by subpara-*
 22 *graphs (B) and (D) of subsection (e)(1) to the same extent*
 23 *and in the same manner as section 303 of such Act applies*
 24 *to the amendments made by section 302 of such Act.*

1 **SEC. 302. EARNINGS AND PROFITS OF REGULATED INVEST-**
 2 **MENT COMPANIES.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 852(c) is
 4 amended to read as follows:

5 “(1) *TREATMENT OF NONDEDUCTIBLE ITEMS.*—

6 “(A) *NET CAPITAL LOSS.*—If a regulated
 7 investment company has a net capital loss for
 8 any taxable year—

9 “(i) such net capital loss shall not be
 10 taken into account for purposes of deter-
 11 mining the company’s earnings and profits,
 12 and

13 “(ii) any capital loss arising on the
 14 first day of the next taxable year by reason
 15 of clause (ii) or (iii) of section
 16 1212(a)(3)(A) shall be treated as so arising
 17 for purposes of determining earnings and
 18 profits.

19 “(B) *OTHER NONDEDUCTIBLE ITEMS.*—

20 “(i) *IN GENERAL.*—The earnings and
 21 profits of a regulated investment company
 22 for any taxable year (but not its accumu-
 23 lated earnings and profits) shall not be re-
 24 duced by any amount which is not allow-
 25 able as a deduction (other than by reason of

1 *section 265 or 171(a)(2)) in computing its*
 2 *taxable income for such taxable year.*

3 *“(ii) COORDINATION WITH TREATMENT*
 4 *OF NET CAPITAL LOSSES.—Clause (i) shall*
 5 *not apply to a net capital loss to which sub-*
 6 *paragraph (A) applies.”.*

7 *(b) CONFORMING AMENDMENTS.—*

8 *(1) Subsection (c) of section 852 is amended by*
 9 *adding at the end the following new paragraph:*

10 *“(4) REGULATED INVESTMENT COMPANY.—For*
 11 *purposes of this subsection, the term ‘regulated invest-*
 12 *ment company’ includes a domestic corporation*
 13 *which is a regulated investment company determined*
 14 *without regard to the requirements of subsection (a).”.*

15 *(2) Paragraphs (1)(A) and (2)(A) of section*
 16 *871(k) are each amended by inserting “which meets*
 17 *the requirements of section 852(a) for the taxable year*
 18 *with respect to which the dividend is paid” before the*
 19 *period at the end.*

20 *(c) EFFECTIVE DATE.—The amendments made by this*
 21 *section shall apply to taxable years beginning after the date*
 22 *of the enactment of this Act.*

1 **SEC. 303. PASS-THRU OF EXEMPT-INTEREST DIVIDENDS**
 2 **AND FOREIGN TAX CREDITS IN FUND OF**
 3 **FUNDS STRUCTURE.**

4 (a) *IN GENERAL.*—Section 852 is amended by adding
 5 at the end the following new subsection:

6 “(g) *SPECIAL RULES FOR FUND OF FUNDS.*—

7 “(1) *IN GENERAL.*—In the case of a qualified
 8 fund of funds—

9 “(A) such fund shall be qualified to pay ex-
 10 empt-interest dividends to its shareholders with-
 11 out regard to whether such fund satisfies the re-
 12 quirements of the first sentence of subsection
 13 (b)(5), and

14 “(B) such fund may elect the application of
 15 section 853 (relating to foreign tax credit al-
 16 lowed to shareholders) without regard to the re-
 17 quirement of subsection (a)(1) thereof.

18 “(2) *QUALIFIED FUND OF FUNDS.*—For purposes
 19 of this subsection, the term ‘qualified fund of funds’
 20 means a regulated investment company if (at the
 21 close of each quarter of the taxable year) at least 50
 22 percent of the value of its total assets is represented
 23 by interests in other regulated investment compa-
 24 nies.”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to taxable years beginning after the date*
 3 *of the enactment of this Act.*

4 **SEC. 304. MODIFICATION OF RULES FOR SPILLOVER DIVI-**
 5 **DENDS OF REGULATED INVESTMENT COMPA-**
 6 **NIES.**

7 (a) *DEADLINE FOR DECLARATION OF DIVIDEND.*—
 8 *Paragraph (1) of section 855(a) is amended to read as fol-*
 9 *lows:*

10 “(1) declares a dividend before the later of—
 11 “(A) the 15th day of the 9th month fol-
 12 lowing the close of the taxable year, or
 13 “(B) in the case of an extension of time for
 14 filing the company’s return for the taxable year,
 15 the due date for filing such return taking into
 16 account such extension, and”.

17 (b) *DEADLINE FOR DISTRIBUTION OF DIVIDEND.*—
 18 *Paragraph (2) of section 855(a) is amended by striking “the*
 19 *first regular dividend payment” and inserting “the first*
 20 *dividend payment of the same type of dividend”.*

21 (c) *SHORT-TERM CAPITAL GAIN.*—*Subsection (a) of*
 22 *section 855 is amended by adding at the end the following:*
 23 *“For purposes of paragraph (2), a dividend attributable to*
 24 *any short-term capital gain with respect to which a notice*
 25 *is required under the Investment Company Act of 1940*

1 *shall be treated as the same type of dividend as a capital*
 2 *gain dividend.”.*

3 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to distributions in taxable years begin-*
 5 *ning after the date of the enactment of this Act.*

6 **SEC. 305. RETURN OF CAPITAL DISTRIBUTIONS OF REGU-**
 7 **LATED INVESTMENT COMPANIES.**

8 (a) *IN GENERAL.*—*Subsection (b) of section 316 is*
 9 *amended by adding at the end the following new paragraph:*

10 “(4) *CERTAIN DISTRIBUTIONS BY REGULATED*
 11 *INVESTMENT COMPANIES IN EXCESS OF EARNINGS*
 12 *AND PROFITS.*—*In the case of a regulated investment*
 13 *company that has a taxable year other than a cal-*
 14 *endar year, if the distributions by the company with*
 15 *respect to any class of stock of such company for the*
 16 *taxable year exceed the company’s current and accu-*
 17 *mulated earnings and profits which may be used for*
 18 *the payment of dividends on such class of stock, the*
 19 *company’s current earnings and profits shall, for*
 20 *purposes of subsection (a), be allocated first to dis-*
 21 *tributions with respect to such class of stock made*
 22 *during the portion of the taxable year which precedes*
 23 *January 1.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to distributions made in taxable years*
 3 *beginning after the date of the enactment of this Act.*

4 **SEC. 306. DISTRIBUTIONS IN REDEMPTION OF STOCK OF A**
 5 **REGULATED INVESTMENT COMPANY.**

6 (a) *REDEMPTIONS TREATED AS EXCHANGES.*—

7 (1) *IN GENERAL.*—*Subsection (b) of section 302*
 8 *is amended by redesignating paragraph (5) as para-*
 9 *graph (6) and by inserting after paragraph (4) the*
 10 *following new paragraph:*

11 “(5) *REDEMPTIONS BY CERTAIN REGULATED IN-*
 12 *VESTMENT COMPANIES.*—*Except to the extent pro-*
 13 *vided in regulations prescribed by the Secretary, sub-*
 14 *section (a) shall apply to any distribution in redemp-*
 15 *tion of stock of a publicly offered regulated investment*
 16 *company (within the meaning of section 67(c)(2)(B))*
 17 *if—*

18 “(A) *such redemption is upon the demand*
 19 *of the stockholder, and*

20 “(B) *such company issues only stock which*
 21 *is redeemable upon the demand of the stock-*
 22 *holder.”.*

23 (2) *CONFORMING AMENDMENT.*—*Subsection (a)*
 24 *of section 302 is amended by striking “or (4)” and*
 25 *inserting “(4), or (5)”.*

1 **(b) LOSSES ON REDEMPTIONS NOT DISALLOWED FOR**
 2 **FUND-OF-FUNDS REGULATED INVESTMENT COMPANIES.—**
 3 *Paragraph (3) of section 267(f) is amended by adding at*
 4 *the end the following new subparagraph:*

5 **“(D) REDEMPTIONS BY FUND-OF-FUNDS**
 6 **REGULATED INVESTMENT COMPANIES.—***Except*
 7 *to the extent provided in regulations prescribed*
 8 *by the Secretary, subsection (a)(1) shall not*
 9 *apply to any distribution in redemption of stock*
 10 *of a regulated investment company if—*

11 *“(i) such company issues only stock*
 12 *which is redeemable upon the demand of the*
 13 *stockholder, and*

14 *“(ii) such redemption is upon the de-*
 15 *mand of another regulated investment com-*
 16 *pany.”.*

17 **(c) EFFECTIVE DATE.—***The amendments made by this*
 18 *section shall apply to distributions after the date of the en-*
 19 *actment of this Act.*

20 **SEC. 307. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR**
 21 **PUBLICLY OFFERED REGULATED INVEST-**
 22 **MENT COMPANIES.**

23 **(a) IN GENERAL.—***Subsection (c) of section 562 is*
 24 *amended by striking “The amount” and inserting “Except*

1 *in the case of a publicly offered regulated investment com-*
 2 *pany (as defined in section 67(c)(2)(B)), the amount”.*

3 (b) *CONFORMING AMENDMENT.*—Section 562(c) is
 4 amended by inserting “(other than a publicly offered regu-
 5 lated investment company (as so defined))” after “regulated
 6 investment company” in the second sentence thereof.

7 (c) *EFFECTIVE DATE.*—The amendments made by this
 8 section shall apply to distributions in taxable years begin-
 9 ning after the date of the enactment of this Act.

10 **SEC. 308. ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR**

11 **LOSSES OF REGULATED INVESTMENT COMPA-**

12 **NIES.**

13 (a) *IN GENERAL.*—Paragraph (8) of section 852(b) is
 14 amended to read as follows:

15 “(8) *ELECTIVE DEFERRAL OF CERTAIN LATE-*
 16 *YEAR LOSSES.*—

17 “(A) *IN GENERAL.*—Except as otherwise
 18 provided by the Secretary, a regulated invest-
 19 ment company may elect for any taxable year to
 20 treat any portion of any qualified late-year loss
 21 for such taxable year as arising on the first day
 22 of the following taxable year for purposes of this
 23 title.

1 “(B) *QUALIFIED LATE-YEAR LOSS*.—For
 2 purposes of this paragraph, the term ‘qualified
 3 late-year loss’ means—

4 “(i) any post-October capital loss, and
 5 “(ii) any late-year ordinary loss.

6 “(C) *POST-OCTOBER CAPITAL LOSS*.—For
 7 purposes of this paragraph, the term ‘post-October
 8 capital loss’ means the greatest of—

9 “(i) the net capital loss attributable to
 10 the portion of the taxable year after October
 11 31,

12 “(ii) the net long-term capital loss at-
 13 tributable to such portion of the taxable
 14 year, or

15 “(iii) the net short-term capital loss at-
 16 tributable to such portion of the taxable
 17 year.

18 “(D) *LATE-YEAR ORDINARY LOSS*.—For
 19 purposes of this paragraph, the term ‘late-year
 20 ordinary loss’ means the excess (if any) of—

21 “(i) the sum of—

22 “(I) the specified losses (as defined
 23 in section 4982(e)(5)(B)(ii)) attrib-
 24 utable to the portion of the taxable
 25 year after October 31, plus

1 “(II) the ordinary losses not de-
 2 scribed in subclause (I) attributable to
 3 the portion of the taxable year after
 4 December 31, over

5 “(ii) the sum of—

6 “(I) the specified gains (as defined
 7 in section 4982(e)(5)(B)(i)) attrib-
 8 utable to the portion of the taxable
 9 year after October 31, plus

10 “(II) the ordinary income not de-
 11 scribed in subclause (I) attributable to
 12 the portion of the taxable year after
 13 December 31.

14 “(E) SPECIAL RULE FOR COMPANIES DE-
 15 TERMINING REQUIRED CAPITAL GAIN DISTRIBUTI-
 16 ONS ON TAXABLE YEAR BASIS.—In the case of
 17 a company to which an election under section
 18 4982(e)(4) applies—

19 “(i) if such company’s taxable year
 20 ends with the month of November, the
 21 amount of qualified late-year losses (if any)
 22 shall be computed without regard to any in-
 23 come, gain, or loss described in subpara-
 24 graphs (C), (D)(i)(I), and (D)(ii)(I), and

1 “(ii) if such company’s taxable year
2 ends with the month of December, subpara-
3 graph (A) shall not apply.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subsection (b) of section 852 is amended by
6 striking paragraph (10).

7 (2) Paragraph (2) of section 852(c) is amended
8 by striking the first sentence and inserting the fol-
9 lowing: “For purposes of applying this chapter to dis-
10 tributions made by a regulated investment company
11 with respect to any calendar year, the earnings and
12 profits of such company shall be determined without
13 regard to any net capital loss attributable to the por-
14 tion of the taxable year after October 31 and without
15 regard to any late-year ordinary loss (as defined in
16 subsection (b)(8)(D)).”

17 (3) Subparagraph (D) of section 871(k)(2) is
18 amended by striking the last two sentences and insert-
19 ing the following: “For purposes of this subpara-
20 graph, the net short-term capital gain of the regulated
21 investment company shall be computed by treating
22 any short-term capital gain dividend includible in
23 gross income with respect to stock of another regulated
24 investment company as a short-term capital gain.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after the date*
 3 *of the enactment of this Act.*

4 **SEC. 309. EXCEPTION TO HOLDING PERIOD REQUIREMENT**
 5 **FOR CERTAIN REGULARLY DECLARED EX-**
 6 **EMPT-INTEREST DIVIDENDS.**

7 (a) *IN GENERAL.*—*Subparagraph (E) of section*
 8 *852(b)(4) is amended by striking all that precedes “In the*
 9 *case of a regulated investment company” and inserting the*
 10 *following:*

11 “(E) *EXCEPTION TO HOLDING PERIOD RE-*
 12 *QUIREMENT FOR CERTAIN REGULARLY DE-*
 13 *CLARED EXEMPT-INTEREST DIVIDENDS.*—

14 “(i) *DAILY DIVIDEND COMPANIES.*—
 15 *Except as otherwise provided by regula-*
 16 *tions, subparagraph (B) shall not apply*
 17 *with respect to a regular dividend paid by*
 18 *a regulated investment company which de-*
 19 *clares exempt-interest dividends on a daily*
 20 *basis in an amount equal to at least 90 per-*
 21 *cent of its net tax-exempt interest and dis-*
 22 *tributes such dividends on a monthly or*
 23 *more frequent basis.*

1 “(i) *AUTHORITY TO SHORTEN RE-*
 2 *QUIRED HOLDING PERIOD WITH RESPECT*
 3 *TO OTHER COMPANIES.—*”.

4 (b) *CONFORMING AMENDMENT.—*Clause (ii) of section
 5 852(b)(4)(E), as amended by subsection (a), is amended by
 6 inserting “(other than a company described in clause (i))”
 7 after “regulated investment company”.

8 (c) *EFFECTIVE DATE.—*The amendments made by this
 9 section shall apply to losses incurred on shares of stock for
 10 which the taxpayer’s holding period begins after the date
 11 of the enactment of this Act.

12 ***TITLE IV—MODIFICATIONS RE-***
 13 ***LATED TO EXCISE TAX APPLI-***
 14 ***CABLE TO REGULATED IN-***
 15 ***VESTMENT COMPANIES***

16 ***SEC. 401. EXCISE TAX EXEMPTION FOR CERTAIN REGU-***
 17 ***LATED INVESTMENT COMPANIES OWNED BY***
 18 ***TAX EXEMPT ENTITIES.***

19 (a) *IN GENERAL.—*Subsection (f) of section 4982 is
 20 amended—

- 21 (1) by striking “either” in the matter preceding
 22 paragraph (1),
 23 (2) by striking “or” at the end of paragraph (1),
 24 (3) by striking the period at the end of para-
 25 graph (2), and

(4) by inserting after paragraph (2) the following new paragraphs:

“(3) any other tax-exempt entity whose ownership of beneficial interests in the company would not preclude the application of section 817(h)(4), or

“(4) another regulated investment company described in this subsection.”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

**SEC. 402. DEFERRAL OF CERTAIN GAINS AND LOSSES OF
REGULATED INVESTMENT COMPANIES FOR
EXCISE TAX PURPOSES.**

(a) *IN GENERAL.*—Subsection (e) of section 4982 is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

“(5) *TREATMENT OF SPECIFIED GAINS AND
LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.*—

“(A) *IN GENERAL.*—Any specified gain or specified loss which (but for this paragraph) would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year.

1 “(B) *SPECIFIED GAINS AND LOSSES.*—*For*
 2 *purposes of this paragraph—*

3 “(i) *SPECIFIED GAIN.*—*The term ‘spec-*
 4 *ified gain’ means ordinary gain from the*
 5 *sale, exchange, or other disposition of prop-*
 6 *erty (including the termination of a posi-*
 7 *tion with respect to such property). Such*
 8 *term shall include any foreign currency*
 9 *gain attributable to a section 988 trans-*
 10 *action (within the meaning of section 988)*
 11 *and any amount includible in gross income*
 12 *under section 1296(a)(1).*

13 “(ii) *SPECIFIED LOSS.*—*The term*
 14 *‘specified loss’ means ordinary loss from the*
 15 *sale, exchange, or other disposition of prop-*
 16 *erty (including the termination of a posi-*
 17 *tion with respect to such property). Such*
 18 *term shall include any foreign currency loss*
 19 *attributable to a section 988 transaction*
 20 *(within the meaning of section 988) and*
 21 *any amount allowable as a deduction under*
 22 *section 1296(a)(2).*

23 “(C) *SPECIAL RULE FOR COMPANIES*
 24 *ELECTING TO USE THE TAXABLE YEAR.*—*In the*
 25 *case of any company making an election under*

paragraph (4), subparagraph (A) shall be applied by substituting the last day of the company's taxable year for October 31.

“(6) *TREATMENT OF MARK TO MARKET GAIN.*—

“(A) *IN GENERAL.*—For purposes of determining a regulated investment company's ordinary income, notwithstanding paragraph (1)(C), each specified mark to market provision shall be applied as if such company's taxable year ended on October 31. In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31.

“(B) *SPECIFIED MARK TO MARKET PROVISION.*—For purposes of this paragraph, the term ‘specified mark to market provision’ means sections 1256 and 1296 and any other provision of this title (or regulations thereunder) which treats property as disposed of on the last day of the taxable year.

“(7) *ELECTIVE DEFERRAL OF CERTAIN ORDINARY LOSSES.*—Except as provided in regulations prescribed by the Secretary, in the case of a regulated

1 *investment company which has a taxable year other*
 2 *than the calendar year—*

3 “(A) *such company may elect to determine*
 4 *its ordinary income for the calendar year with-*
 5 *out regard to any net ordinary loss (determined*
 6 *without regard to specified gains and losses*
 7 *taken into account under paragraph (5)) which*
 8 *is attributable to the portion of such calendar*
 9 *year which is after the beginning of the taxable*
 10 *year which begins in such calendar year, and*

11 “(B) *any amount of net ordinary loss not*
 12 *taken into account for a calendar year by reason*
 13 *of subparagraph (A) shall be treated as arising*
 14 *on the 1st day of the following calendar year.”.*

15 (b) *EFFECTIVE DATE.—The amendments made by this*
 16 *section shall apply to calendar years beginning after the*
 17 *date of the enactment of this Act.*

18 **SEC. 403. DISTRIBUTED AMOUNT FOR EXCISE TAX PUR-**
 19 **POSES DETERMINED ON BASIS OF TAXES**
 20 **PAID BY REGULATED INVESTMENT COMPANY.**

21 (a) *IN GENERAL.—Subsection (c) of section 4982 is*
 22 *amended by adding at the end the following new paragraph:*

23 “(4) *SPECIAL RULE FOR ESTIMATED TAX PAY-*
 24 *MENTS.—*

1 “(A) *IN GENERAL.*—*In the case of a regu-*
 2 *lated investment company which elects the appli-*
 3 *cation of this paragraph for any calendar*
 4 *year—*

5 “(i) *the distributed amount with re-*
 6 *spect to such company for such calendar*
 7 *year shall be increased by the amount on*
 8 *which qualified estimated tax payments are*
 9 *made by such company during such cal-*
 10 *endar year, and*

11 “(ii) *the distributed amount with re-*
 12 *spect to such company for the following cal-*
 13 *endar year shall be reduced by the amount*
 14 *of such increase.*

15 “(B) *QUALIFIED ESTIMATED TAX PAY-*
 16 *MENTS.*—*For purposes of this paragraph, the*
 17 *term ‘qualified estimated tax payments’ means,*
 18 *with respect to any calendar year, payments of*
 19 *estimated tax of a tax described in paragraph*
 20 *(1)(B) for any taxable year which begins (but*
 21 *does not end) in such calendar year.’.*

22 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 23 *section shall apply to calendar years beginning after the*
 24 *date of the enactment of this Act.*

1 **SEC. 404. INCREASE IN REQUIRED DISTRIBUTION OF CAP-**
 2 **ITAL GAIN NET INCOME.**

3 (a) *IN GENERAL.*—Subparagraph (B) of section
 4 4982(b)(1) is amended by striking “98 percent” and insert-
 5 ing “98.2 percent”.

6 (b) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall apply to calendar years beginning after the
 8 date of the enactment of this Act.

9 **TITLE V—OTHER PROVISIONS**

10 **SEC. 501. REPEAL OF ASSESSABLE PENALTY WITH RESPECT**
 11 **TO LIABILITY FOR TAX OF REGULATED IN-**
 12 **VESTMENT COMPANIES.**

13 (a) *IN GENERAL.*—Part I of subchapter B of chapter
 14 68 is amended by striking section 6697 (and by striking
 15 the item relating to such section in the table of sections of
 16 such part).

17 (b) *CONFORMING AMENDMENT.*—Section 860 is
 18 amended by striking subsection (j).

19 (c) *EFFECTIVE DATE.*—The amendments made by this
 20 section shall apply to taxable years beginning after the date
 21 of the enactment of this Act.

22 **SEC. 502. MODIFICATION OF SALES LOAD BASIS DEFERRAL**
 23 **RULE FOR REGULATED INVESTMENT COMPA-**
 24 **NIES.**

25 (a) *IN GENERAL.*—Subparagraph (C) of section
 26 852(f)(1) is amended by striking “subsequently acquires”

1 *and inserting “acquires, during the period beginning on the*
2 *date of the disposition referred to in subparagraph (B) and*
3 *ending on January 31 of the calendar year following the*
4 *calendar year that includes the date of such disposition,”.*

5 *(b) EFFECTIVE DATE.—The amendment made by this*
6 *section shall apply to charges incurred in taxable years be-*
7 *ginning after the date of the enactment of this Act.*

Attest:

Secretary.

11TH CONGRESS
2^D Session

H.R. 4337

AMENDMENT